

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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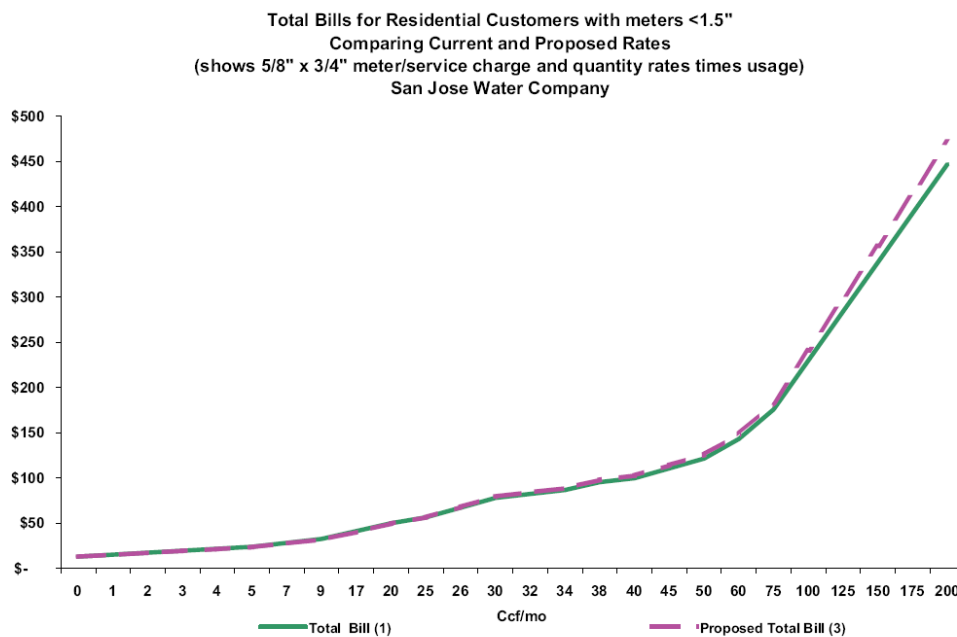
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| Order Instituting Investigation to Consider Policies to Achieve the Commission's Conservation Objectives for Class A Water Utilities. | Investigation 07-01-022 (Filed January 11, 2007) |
| In the Matter of the Application of Golden State Water Company (U 133 E) for Authority to Implement Changes in Ratesetting Mechanisms and Reallocation of Rates. | Application 06-09-006 (Filed September 6, 2006) |
| Application of California Water Service Company (U 60 W), a California Corporation, requesting an order from the California Public Utilities Commission Authorizing Applicant to Establish a Water Revenue Balancing Account, a Conservation Memorandum Account, and Implement Increasing Block Rates | Application 06-10-026 (Filed October 23, 2006) |
| Application of Park Water Company (U 314 W) for Authority to Implement a Water Revenue Adjustment Mechanism, Increasing Block Rate Design and a Conservation Memorandum Account. | Application 06-11-009 (Filed November 20, 2006) |
| Application of Suburban Water Systems (U 339 W) for Authorization to Implement a Low Income Assistance Program, an Increasing Block Rate Design, and a Water Revenue Adjustment Mechanism | Application 06-11-010 (Filed November 22, 2006) |
| Application of San Jose Water Company (U 168 W) for an Order Approving its Proposal to Implement the Objectives of the Water Action Plan | Application 07-03-019 (Filed March 19, 2007) |

**CORRECTED COMMENTS OF THE CONSUMER FEDERATION OF CALIFORNIA
ON THE SETTLEMENT AGREEMENT BETWEEN THE
DIVISION OF RATEPAYER ADVOCATES AND SAN JOSE WATER COMPANY
ON WRAM AND CONSERVATION RATE DESIGN ISSUES**

In previous Comments and testimony, the Consumer Federation of California ("CFC") has urged the Commission to require California's water companies to

implement rates which provided stronger conservation price signals to customers than those proposed in settlements filed in this Investigation. CFC reiterates those comments here, and asks the Commission to reject the Settlement Agreement between San Jose Water Company ("San Jose" or "SJWC") and the Division of Ratepayer Advocates ("DRA") because the rates proposed therein provide absolutely no conservation price signal.

The parties to the Settlement have agreed to make no changes to the rates charged 'non-residential' customers, and to make only a slight change to 'residential' rates, a two-tiered rate structure which, if implemented, would result in nearly the same charges as now made with a single volumetric rate, as demonstrated by attachments to the Settlement:



CFC asks the Commission to reject the proposed settlement because it will not encourage conservation and because:

- The Settlement imposes different charges on residential customers than on non-residential customers and no cost study has been developed to demonstrate that discrimination is reasonable.
- No reasons have been offered by the settling parties for their failure to propose tiered rates for non-residential customers.
- The tiered rates proposed for residential customers are not designed in the way the parties have described them in the Settlement.
- The tiered rates simply divide customers in each meter group in half and decrease rates to the lower half, while increasing rates to the upper half.
- The tiered rates do not send price signals to customers who are the largest users of water that would encourage them to conserve water.
- A third tier rate is needed to send a conservation price signal to customers who are the largest users of water. The third tier could be set to encourage conservation by customers who are using more water than 80 percent of other customers with the same size meter, or whose usage falls within the top 20 percent of water usage by customers with the same size meter.
- CFC has developed a tiered rate structure to demonstrate that conservation rates can be designed to target large residential users of water, and asks the Commission to reject the Settlement and order San Jose to propose rates which remedy the defects in rates proposed in the Settlement and to defer implementation of a water revenue adjustment mechanism until conservation

rates have been developed..

CFC also asks the Commission to determine that the take or pay contract between San Jose and the Santa Clara Valley Water District does not excuse the development of conservation rates.

I. The Re-Classification of Customers Has Taken Place Without A Cost Allocation Study, An Essential and Legally Required Step in Rate Design.

San Jose Water Company currently provides general metered service to all customers, residential and non-residential alike, under a single tariff. Service charges are fixed based on meter size, and a single volumetric rate (\$2.1745/ccf) is applied to all quantities consumed. Under the Settlement, two classes of customers are created:

This Settlement Agreement includes a conservation rate design consisting of a two-tiered rate structure for the quantity (or volumetric) rates of residential customers. No changes are proposed for the service (or meter) charges of residential customers, and no changes are proposed for the rates of any other customer class in San Jose's service area at this time.¹

CFC asked San Jose to supply copies of all work papers used to develop rates it originally proposed. Reference was instead made to "SJW Schedules 1-6.xls," filed with San Jose's Application ("A") 07-03-019. CFC asked San Jose to supplement the response. The data subsequently provided did not include a cost allocation study which separately assigns costs of providing service to residential and non-residential customers.

The Settlement picks up from where San Jose left off. Nothing in the Settlement explains how costs were allocated between "residential" and "non-residential" customers. CFC asked in a data request for an explanation of the method used to

¹ Settlement Agreement at II.A.

identify and differentiate “residential” customers who will be charged for water on a tiered quantity rate structure from those “other metered customer classes” who will not be charged on a tiered quantity rate.” The parties’ response was, “The ‘residential customers’ referred to in the Settlement Agreement are those defined as ‘residential’ in San Jose’s billing records.” The parties also referred to that part of the Motion for Approval of the Settlement which states:

The source data for the consumption analysis were meter readings from calendar year 2006. All customers receiving service on the General Metered Service tariff schedule were classified by individual customer group (rate code) from which the customers categorized in the residential rate codes were extracted for analysis.

The parties also admitted, “No cost allocation studies were used to develop rates in the proposed settlement. The proposed rates are based on the cost allocation adopted for SJWC by the Commission in D.06-01-015.” (The reference was subsequently corrected to D.06-11-015.) D.06-11-015 does not discuss cost allocation. The case was settled, as was the general rate case immediately preceding it, A.03-05-035 /D.04-08-054. In neither case was any issue raised about inter-class cost allocation.

The Settlement ignores a basic tenet of ratemaking:

[A] water agency should ... identify the following four key components when developing a rate structure: the revenue requirement, the classification of system cost, the allocation to customer classes, and the design of the rate structure. Each water agency must prioritize these policy criteria and characteristics to determine the "correct" water rate structure for its specific community.

Sanjay Gaur, “*Policy Objectives In Designing Water Rates*,” e-Journal AWWA, Volume 99, Issue 5 (May 2007). The Commission has stated that the allocation of costs among

customer segments is “the first step in the rate design process.” *Investigation Into Implementing A Rate Design For Unbundled Gas Utility Services*, D. 87-05-046, 1987 Cal. PUC LEXIS 760, *4 (Cal. PUC 1987).

This Commission has traditionally recognized the principle that utility revenues should be allocated by assigning cost responsibility in relation to cost causation. Cost-based rates promote economic efficiency because customers pay for what they consume, and thus properly adjust their consumption to match what the product really costs (Ex. 153, p. 6). ... Cost-based allocation and rate design promotes efficient utility planning.

Application of Southern California Edison, Decision 02-02-052 at 58 (Feb. 22, 2002).

In response to a similar criticism by CFC of the settlement between Golden State Water Company and DRA, the settling parties stated that because the settlement preserved the contribution of residential and non-residential customers towards the total authorized revenue, the Commission could safely assume costs were equitably allocated. Such an assumption would be reasonable, however, only if a cost allocation study had been performed recently and the existing allocation of costs between customer classes was preserved by the proposed rates. Neither is the case here.

With the implementation of different conservation rates for different classes of customers, it becomes more important to allocate costs before implementing rates, so that the costs of providing service to each class of customers is fairly allocated and each realizes the benefits of that class’ future response to differing conservation price signals. Or in other words, since residential customers’ rates are being changed to a tiered rate structure to promote conservation, and non-residential customers are not, any reduction in sales caused by the changed residential rate structure should inure to the benefit of residential customers, and that can only be done if costs are first allocated

fairly between them and rates set to reflect each class' cost.

In the absence of a cost allocation study, the Commission cannot determine that the difference in rates charged residential and non-residential customers is "reasonable", as required by California law:

No public utility shall establish or maintain any unreasonable difference as to rates, charges, service facilities, or in any other respect, either as between localities or as between classes of service.

Pub. Util. Code § 453(c). The Settlement cannot be found reasonable without evidence that costs are being fairly allocated between customer classes.

II. The Settlement Proposes No Change In Rates Charged Non-Residential Customers.

In prior Settlements filed in this Investigation (I-07-01-022), the parties have attempted to justify their failure to propose a tiered rate structure for non-residential customers by claiming a shift in collection of some fixed costs from the service charge to the volumetric charge constitutes a conservation rate design proposal. No such claim can be made with respect to rates proposed in the Settlement with San Jose:

For all customer classes, the Parties have maintained the meter (or service) charges authorized in San Jose's last GRC, D.06-11-015.

Settlement Agreement at para V.B.1. The Settlement Agreement proposes no change in rates charged non-residential customers, and can not be deemed a "conservation rate" proposal.

The only reason given in the Settlement for the parties' failure to propose tiered rates for non-residential customers is the parties agreement that "a tiered quantity rate design is not currently necessary for these customers because approximately 81% of

the total revenue from these customer classes already is collected through the volumetric (or quantity) rate in accordance with the conservation guidelines established in BMP 11.”² This statement does not justify the parties’ failure to propose a conservation rate of some sort for customers who consume 40 percent of all the water sold by San Jose. CFC has suggested the kind of rates used by the Irvine Ranch Water District which provide an allowance for the historical, ‘base’ amount used by individual customers, and charge increased amounts for water used in excess of this level

III. Tiered Rates – Residential Customers

A. Settlement Rates

The Settlement Agreement proposes a two-tiered rate structure for residential customers. (Non-residential customers will continue to be charged at a single volumetric rate). Residential usage will be charged at \$2.10/ccf until it reaches 13 ccf (26 ccf, for customers with large meters), then will increase to \$2.31 when consumption rises above that level. The parties state that “different meter sizes have different consumption break points.”³ In fact, the parties use only two consumption break points, one for the three meter sizes below 1 ½”, and the other for meters which are 1 ½” or more.⁴

The parties agreed that the breakpoint should be set at “average monthly consumption during the winter months as a proxy for indoor water usage:

In San Jose’s service area, residential customers used the lowest amounts of water in February, March, and April. The Parties designated these months as “winter months” for the purposes of this

² Settlement Agreement at para. V.C.2.

³ Settlement Agreement at para. V.C.1.b.

⁴ Settlement Agreement at para. V.D. & Attachment 1, Worksheet 1, Rate Design.

rate design. The Parties used the average monthly consumption during winter months as a proxy for indoor water usage, the lowest level of usage that is assumed to be basic and reasonable in the specific ratemaking area.⁵

The Settlement does not specify the average monthly consumption during winter months. It appears from workpapers supplied by the parties that DRA relied on information provided by a San Jose employee, in an e-mail, which stated the average use of residential customers of all meter sizes during the months of February, March and April for the previous five years. Workpapers show the winter average use of the entire group of customers designated as residential is 10.2 ccf.

However, the parties are not using 'average monthly consumption during winter months' as a breakpoint between Blocks 1 & 2. The parties set the break point at "the mid-point between (a) the average monthly consumption over an entire year, and (b) the average monthly consumption during the winter months."⁶ The average monthly usage figure they used was 15.36 ccf, and the breakpoint is derived by the following calculation: $10.2 + 15.36 / 2 = 13$ The following chart displays each meter size's average use, the average winter use figure used to design rates, and the break point selected for the proposed settlement rates:

| Meter size | Ave. Monthly Use | Ave. Winter Use | Breakpoint |
|------------|------------------|-----------------|------------|
| 5/8" | 14.5 ccf | 10.2 ccf | 13 |
| 3/4" | 14 ccf | 10.2 ccf | 13 |
| 1" | 20.7 | 10.2 ccf | 13 |
| 1 1/2" | 42.5 | 10.2 ccf | 26 |

⁵ Settlement Agreement at para V.A.2.a.
⁶ Settlement Agreement at V.D.1.)

2"

77.8

10.2 ccf

26

There is no instance where the breakpoints used to fix rates constitutes the mid-point between average monthly and annual winter use, if data developed for customers with different size meters is examined. And the parties provide no explanation for setting the break point between tiers of rates charged customers with 1 ½" and 2" meters at 26 ccf.

The parties do not have information which would show the average monthly usage during winter months for different meter sizes, and did not use the average monthly usage during winter months as a break point between rate blocks. The parties offer no rationale in the Settlement for setting the breakpoint of the two rates they propose higher than average monthly consumption during the winter months.⁷ When asked to explain the reasons for using the midpoint between the average annual and average winter consumption as the upper level of the first consumption block, instead of using the average monthly consumption during the winter months as the upper level, the parties responded:

As stated in the Motion at page 8, setting the breakpoint between monthly annual average and winter average "ensures that customers at low and average levels of consumption stay within Block I."

B. Consumption of Water in San Jose Territory Varies Among Customers With Different Sized Meters.

It is assumed that the parties' reason for separately analyzing usage of customers with different sized meters was a belief that the usage patterns of each group were different. The data provided by San Jose shows, as might be expected, that customers with 5/8" and ¾" meters tend to use less water than customers with larger

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Nor are the average winter months' usage figures provided in the Settlement. They were

meters. More than three-fourths of the volume of water sold to customers with ¾”

meters is sold to customers using 60 ccf/month or less.⁸ There are approximately 950,000 such customers, with average use of 23.5 ccf/month. The remaining volume of water is procured to serve approximately 75,000 customers with average use of 85.5 ccf/month.

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Usage of customers with larger meters tends to fall into the higher ranges of usage. Only 43 percent of the total volume of water sold to customers with 1” meters is sold to customers using 30 ccf/month or less. For customers with 1 ½” and 2” meters, that percentage falls to 17 percent and 6 percent, respectively. Average use of customers above and below the 60 ccf level for each of these meter size groups is:

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| Meter Size | Usage <60 ccf | | Usage >60 ccf | |
|------------|-----------------------------|-----------------|-----------------------------|----------------|
| | Number of customers (bills) | Average Use | Number of Customers (bills) | Average Use |
| 1” | 109,838 | <u>22.4</u> ccf | 28,616 | <u>114</u> ccf |
| 1 ½ “ | 3,209 | <u>26</u> ccf | 2443 | <u>162</u> ccf |
| 2” | 468 | <u>22</u> ccf | 657 | <u>252</u> ccf |

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Examination of the number of (bills) sent to customers with usage above and below 30 ccf/month reveals another difference between customers with differently sized meters. Approximately TWO-THIRDS of the bills sent to customers with 5/8” meters and ¾” meters is for usage at 30 ccf or less. Comparable figures for other meter sizes are: 1” meters: 57 percent of the bills; 1 ½ ” meters: 36 percent of the bills; and 2”

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obtained by CFC through a data request.

⁸ Total volume of water sold to these customers is 28,693,782. The total volume of water sold to customers at the 60 ccf level is 22,263,042.

meters: 26 percent of the bills. Clearly, customers with large meters are more likely to use more water than customers with smaller meters.

The usage patterns of customers classified as “residential” are not uniform. Customers with larger meters are able to, and do, use more water than customers with smaller meters. The cost of serving customers with large meters should be separated from the cost of serving customers with small meters, and rates should be designed separately to recover costs from, and encourage conservation by, each group.

C. Proposed Settlement Rates Will Not Encourage Conservation.

An examination of the data provided by San Jose also demonstrates that the rate design proposed in the Settlement will not encourage conservation. The proposed rates, as shown in the Settlement are:

| Block 1 (meters <1.5") | | | Block 2 (1 ½" & 2" meters) | | |
|------------------------|----------------|--------------------|----------------------------|----------------|--------------------|
| | Proposed Tiers | Proposed New Rates | | Proposed Tiers | Proposed New Rates |
| Tier 1 | 13 ccf | \$2.10 | Tier 1 | 26 ccf | \$2.10 |
| Tier 2 | Over 13 ccf | \$2.31 | Tier 2 | Over 26 ccf | \$2.31 |

Half of the customers with 5/8", ¾", and 1" meters use less than 11 ccf of water each month.⁹ Setting the breakpoint of the proposed rates at 13 ccf will reduce rates to half of customers in each size meter group, from \$2.1754/ccf to \$2.10/ccf. The other half of the customers will be billed at \$2.31, once their use exceeds the 13 ccf breakpoint. The parties have apparently made a judgment that there should be no

⁹ The median use of customers with 5/8" and ¾" meters is 11 ccf.; the median use of customers

increase from the current price for water until usage exceeds the level used by approximately half of all residential customers.

The proposed rates recognize that most of the usage by customers with 1 ½" and 2" meters is well above 13 ccf. The breakpoint is moved up to 26 ccf. Consequently, half of the customers with 1 ½" meters will also see a rate reduction.¹⁰

The policy of implementing a single rate increase for half of the customers, as proposed in the settlement, does not serve any real conservation purpose. It does not target those customers who are using most of the water sold by SJWC. Less than 8 percent of water use by 5/8" metered customers is below 13 ccf; the comparable figure for ¾" metered customers is 8 percent, and for 1" metered customers is 11 percent. Less than 7 percent of use by 1 ½" metered customers is below 26 ccf; for 2" metered customer, that figure is 10 percent. Most of the water being sold to San Jose's customers is being consumed by customers who use much more than 13 ccf/month. Examination of San Jose's bill analysis data indicates that half of the water being consumed by each group of customers is being consumed by customers with the following bi-monthly usage levels:

5/8" meters: more than 42 ccf 1 ½" meters: more than 150 ccf
¾" meters: more than 36 ccf 2" meters: more than 330 ccf
1" meters: more than 70 ccf

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If the Commission's goal is to reduce the amount of water being consumed by water utility customers, it makes sense to impose price increases on customers who are using most of the water, not customers at the low end of the consumption scale.

with 1" meters is 12.5 ccf.

The creation of a third block of usage, charged at a rate higher than the second tier rate, would encourage conservation.

D. The Lack of Extreme Differences Between Summer and Winter Use Does Not Justify the Failure to Create a 3rd Tier Rate Block.

The parties state they did not include a third tier in the proposed conservation rate design because the consumption analysis did not show sufficient differences between low use months and high use months to warrant the development of a third tier. CFC has previously filed testimony addressing the position of the DRA and other water companies that a third block rate should be created only if summer monthly average use is more than twice winter monthly average use. CFC suggested that the parties were confusing seasonal rates and increasing block rates. Seasonal rates are put in place to discourage use at times of peak demand, during summer months. A customer's total use may be small, but if it occurs during peak periods, the customer is contributing to the higher costs the utility incurs at the time of peak demand and the customer should be charged with that cost. The parties have undertaken no studies to determine periods of peak use of water, other than to compile usage figures for summer months and calculate the average.

E. The Need for a Third Tier Rate.

Increasing block rates do not address the peak demand situation. Increasing block rates are intended to curtail usage, in general, not usage at times of peak demand.

There are many reasons to encourage overall reduction in the amount of water used. Water supplies are finite. This fact becomes particularly evident during a

¹⁰ The median use of customers with 1 ½" meters is 25 ccf.

drought. If new sources of water can be found, the cost of developing them, both in actual exploration and construction dollars and in terms of damage to the environment, has become prohibitive. The less water we use now, the more that will be available in the future. Reducing the amount of water we use also reduces the amount of energy needed by both customers (for water heating) and by the utility for operating its facilities. Consequently, there is a secondary conservation benefit, a reduction in the amount of fuel needed to produce that energy. Using less water also puts less pressure on our sewage treatment facilities.

If the Commission is interested in curtailing overall usage by customers, a third block rate should be added to rates proposed by the settling parties. Creation of a third block with higher rates than Block II proposed by the parties would discourage use in excess of a certain point to be determined by the Commission. That point might be established by developing some goal as to how much each utility's consumption figures should be reduced, as was done with the establishment of a goal for installation of solar energy measures, then deciding how much of a reduction in water use should be required of a particular group of customers, *e.g.* residential vs. non-residential. It is understood that the Department of Water Resources has, in the past, estimated the gap between anticipated supply and projected demand of urban water demand, and evaluated strategies to reduce this gap. The contribution of water utilities toward reduction of the gap could be used to determine what usage should be 'taxed' at the highest rate in the tiered rate structure.

In the alternative, one might take the approach adopted by the settling parties and use existing customer usage patterns as a guide to determining how various levels

of water use should be priced.

For example, in the proposed settlement, the parties have agreed that an average customer's use during the winter months (however calculated and applied) should be used to establish the top of the first tier, and have established a discounted price for that use.¹¹ The breakpoint they have established happens to coincide with a point which separates half of the customers with a certain size meter from the other half of customers with the same size meter. A third tier could be created, beginning with the usage of customers, beyond the median, like the level of use of 70 or 80 percent of other residential customers with the same size meter. Anyone using more than that level of use would be charged for their 'excess' usage. The breakpoints at which customers' usage exceeds that of 70 to 80 percent of customers within each size meter group are:

| | 5/8" | 3/4" | 1" | 1 1/2" | 2" |
|-----|--------|--------|--------|---------|---------|
| 70% | 34 ccf | 32 ccf | 44 ccf | 90 ccf | 156 ccf |
| 80% | 44 ccf | 40 ccf | 62 ccf | 128 ccf | 204 ccf |

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The wide disparity between usage patterns of customers with smaller meters and customers with larger meters is again evident in this chart, bringing into question the basis upon which San Jose has classified customers as 'residential', as opposed to non-residential.

Assuming customers have been correctly classified as "residential", however,

¹¹ CFC has instead recommended that the first tier should be set at a level sufficient for essential uses. Testimony of Wodtke at p. 8. For some reason, CFC's approach is considered "rationing" and DRA's approach is not. Yet both strive to set the first tier level of rates at the level required to satisfy basic water needs of residential customers.

there does not appear to be any rational basis for treating customers with different size meters differently when it comes to conservation, other than the fact that when they built their homes, some installed larger sized meters. That fact, alone, does not justify their use of more water than their neighbor, who installed a smaller meter.¹²

To address this situation, and in light of the purpose of conservation rates to reduce overall usage, it makes sense to consider the use of customers with $\frac{3}{4}$ " meters as representative of residential customers as a whole. Customers with $\frac{3}{4}$ " meters account for eighty percent of residential consumption.¹³ According to the parties, "The $\frac{3}{4}$ inch diameter meter is presently the standard size meter for new residential service connections."

An alternative approach to setting a breakpoint would be to look at consumption of the group, and to begin charging higher rates for usage at levels which exceed the level of 70 or 80 percent of total consumption of that group. Looking at the San Jose data for customers with $\frac{3}{4}$ " meters, one sees that 70 percent of the total monthly consumption of the group is 20,085,647, which occurs on a bi-monthly basis at 52 ccf. (80 percent of consumption is 22,955,026, which occurs at 64 ccf). Thus one could set an initial breakpoint at average winter of the customers with $\frac{3}{4}$ " meters use (10.2 ccf, or whatever the correct number may be) -- or 10 ccf (essential indoor use) -- with a second breakpoint set at 70 or 80 percent of consumption of the $\frac{3}{4}$ " metered customer group, i.e., at 52 ccf or 64 ccf per month. Rates could then target 'excess' usage, i.e. usage

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¹² The Settling parties have assumed that the larger meters are installed on "multi-unit residential buildings, which may house low-income tenants," and used that assumption to justify designing different rates for them. Settlement Agreement at V.D.1.b. CFC has recommended, instead, that multi-family dwellings be identified, be removed from the residential class, and treated as commercial customers unless a multi-family residence tariff can be designed to address their unique usage characteristics. CFC Opening Brief at 3, 16-17.

which falls outside 70 or 80 percent of usage of the group as a whole

F. An Alternative Rate Structure.

Using the “Water Customers Consumption Analysis” data which was used by San Jose in its initial filing, CFC has developed rates which include a third tier. The rates included in an Attachment to these Comments set the top of the first tier at 10 ccf, the amount of water deemed essential for the basic human needs of a family of four,¹⁴ and incidentally, the average use of a SJWC residential customer. CFC set the top of the second tier at 40 ccf, which is the amount of water used by 80 percent of San Jose’s residential customers with ¾” meters. The remainder of residential customer usage would be priced at the third tier level. These rates are designed to produce the revenue which DRA calls “V Target Revenue,” \$77,085,459.¹⁵ The rates are:

| | |
|-------------------------|----------------------|
| 10 ccf or less | <u>\$1.00</u> /ccf |
| 11 to <u>40</u> ccf | <u>\$2.1745</u> /ccf |
| More than <u>40</u> ccf | <u>\$2.30</u> /ccf |

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The rate for essential uses is \$1.00 which makes essential water accessible to everyone, especially low-income customers, at a reasonable rate and minimizes the need for subsidy. The second tier is set at the current rate, \$2.1745; and third tier rates are 6 percent higher than the current rate, which is admittedly a very small price signal but all that can be managed if the rate design is to remain revenue neutral. Rates like these would sne some encouragement to customers who are using more water than 80

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¹³ See Schedule 4 of San Jose Application.

¹⁴ See, testimony of Wodtke at p.

¹⁵ CFC has been unable to understand why the settling parties have used \$2.1700 in revenue

percent of other residential customers to reduce that excess usage.

Rates were developed only for customers with 5/8", 3/4", 1", 1 1/2" and 2" meters.

In its initial filing, San Jose categorized an additional group of customers as "GMS with Fire – All Sizes". There was no data for such a category in the "Water Customers Consumption Analysis" provided by San Jose, although there was a category entitled, "Residential – Monthly, 3 inch meters," which may or may not have been the same. CFC has treated consumption of the "GMS with Fire" customers as being charged at a single volumetric rate, for purposes of measuring the revenue neutrality of rates it has developed.

Charts are provided in the attachment comparing bills sent for varying levels of usage at existing rates and at rates developed by CFC. Bills received by customers under rates developed by CFC would be reduced for any customer with usage below 22 ccf, which is above the average use of customers with 3/4" meters. Thus, they satisfy the settling parties' goal to include customers at low and average levels of consumption within the first block. Increases would be small at that level, and gradually increase to a 20 percent increase at the 28 ccf level, and continuing to increase beyond that level.

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G. Impact of Rates Developed by CFC on Low-Income Customers.

Neither DRA nor CFC is able to determine the impact of rates which may be approved in this proceeding on low-income customers. The following exchange, which occurred between CFC and the settling parties during discovery, demonstrates that the

Deleted: CFC has included a four-tier rate in the Attachment for illustrative purposes. It is interesting to see the difference between increases at higher levels with a three-tier and a four-tier rate. The four-tier rate makes increases much more gradual.

neutrality calculations as the current rate of SJWC, instead of \$2.1745, the published tariff rate.

settling parties cannot identify which customers are low-income and thus cannot predict the effect of rates proposed in the settlement on low-income customers:

CFC: Please provide a "Bill Impact Analysis at Various Usage Levels" in the format of Worksheet 4 Bills by Consumption, included in the Settlement Agreement, showing the effect on low-income customers of conservation rates proposed by San Jose Water in its Application filed March 19, 2007, to which the Bill Impact Analysis at Various Usage Levels included in the Settlement Agreement may be compared.

Response of DRA and SJWC:

As stated in the Motion of the Division of Ratepayer Advocates and San Jose Water Company to Approve Settlement Agreement (Motion) at page 5, "the company does not have sufficient data to identify which of its customers are low income." Consequently, no analysis such as that requested by CFC is available.

The effect on low-income customers of rates developed by CFC would depend on the amount of water these customers use. All residential customers would be charged at the same rate, with low-income assistance available to offset any increased costs.

The settling parties would allow customers with larger meters to use water at the first tier, lower rate (\$2.10) until they reach 26 ccf of consumption, instead of the 13 ccf allowed other residential customers, based on San Jose's assertion that "many of its low income customers reside in multiple-unit buildings served by larger diameter meters."¹⁶ There is no evidence to support such an assumption. By minimizing the effect of conservation rates on customers with larger meters, the settling parties are protecting large residential customers who are not low-income from the very price signals needed to encourage them to conserve.

CFC pointed out in its initial brief, filed August 27, 2007, that low-income

customers with large families may have to cut back on water use if they are billed at a third tier rate level, but suggested there are more direct ways to address that problem, like the variance adopted by the Irvine Ranch Water District which creates an initial allowance based on the number of people living in the home, or the bi-monthly adjustments made by LADWP to account for family size. (CFC Opening Br. at 21).

H. Conclusion.

The rates proposed in the parties' Settlement Agreement will not encourage conservation because they fail to target customers who are using most of the water San Jose sells. Rates CFC developed show that rates can be implemented which send stronger conservation price signals. The Settlement Agreement should be rejected and San Jose should be required to design effective conservation rates, based on a complete cost-allocation study and addressing the usage patterns of both residential and non-residential customers, to achieve the Commission's conservation goals.

V. Take or Pay.

The parties portray the "take-or-pay" contract between San Jose and the Santa Clara Valley Water District as a major impediment to conservation, but only on one side of the table. Although they state that San Jose must schedule water deliveries at a minimum of 95% of the highest amount of water contracted for in any one year of the previous three year schedule, and must pay for at least 90% of the water scheduled

over a three-year period,¹⁷ they also indicate that Santa Clara Valley may, on its own initiative, change that requirement in response to “water supply allocation policies of federal agencies or the state of California.”¹⁸ An inquiry should be made into the possibility that San Jose could obtain modification of the contract, as well. Further inquiry should also be made into the relative costs and benefits of paying whatever penalty might be required if San Jose does not contract for the amount of water specified in the contract, *vis à vis* benefits the state and San Jose’s customers might achieve through additional conservation.

VI. WRAM/MCBA

The Water Revenue Adjustment Mechanism (WRAM) proposal in the San Jose settlement is essentially the same as proposed by Suburban Water Company, i.e. the “Monterey-style” WRAM.¹⁹ CFC questions the need for a WRAM, given the fact that rates proposed in the Settlement are not “conservation rates.” As stated earlier, the only change accomplished through settlement is the establishment of a two-tier rate structure for residential customers, only, which results in essentially the same charges as now made with a single volumetric rate. It is unlikely San Jose will see any erosion in revenues caused by conservation.

The Commission should reject the WRAM proposal, as it did previously, and for the same reasons.

“[W]ater utilities are allowed an opportunity to earn a return reasonably

¹⁷ Settlement Agreement at III.B.3.

¹⁸ Settlement Agreement at III.B.5.

¹⁹ The parties state that the difference between the San Jose and Monterey-style WRAM is that the WRAM proposed for San Jose “compares revenues aggregated to the level of customer class. The WRAM in California American Water’s Monterey District compares revenues based on assumptions about per connection usage.” Further, they promise that the pricing adjustment mechanism “does not track revenues from non-residential customers.”

sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.” And further, “Class A water companies in California are provided special rate relief for certain expenses that are beyond their control.” Also, “With these regulatory tools available to them, the 14 Class A water utilities have shown stable earning and healthy rates of return.”

(Morse Testimony at 16:25, quoting D.94-06-033).

CONCLUSION

For all the reasons set forth herein, the Settlement Agreement between San Jose Water Company and the Division of Ratepayer Advocates should be rejected and conservation rates set in the manner recommended in the testimony and exhibits of CFC’s witness offered in the Phase IA hearing and as more fully described herein.

Dated: February 11, 2008 Respectfully submitted,

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